

Permit No. _____

**PERMIT AGREEMENT
FOR
OCCUPANCY AND USE OF PREMISES
FOR
BLIND OPERATED VENDING FACILITIES**

This is an Agreement, effective upon full execution, between the DEPARTMENT OF HUMAN SERVICES (hereinafter called "Agency") and Shelby County, Tennessee (hereinafter called "Management"), which manages and operates the Shelby County Correctional Center in Memphis , Tennessee.

IN CONSIDERATION of the mutual agreements hereinafter contained, the parties agree as follows:

1. Management agrees to permit Agency to provide inmate commissary services at the Shelby County Correctional Center located at 1046 Mullins Station Road in Memphis, Tennessee. The inmate commissary will be operated as an off-site packaging operation.

2. The inmate commissary is a "vending facility" as defined at T.C.A. § 71-4-502(5). The above-described premises may be used by Agency solely for the purpose of establishing a vending facility to be operated by one or more blind persons supervised by Agency and licensed by Agency in accordance with the Randolph-Sheppard Act, as amended (20 U.S.C. §§ 107-107f, as amended) and T.C.A. §§71-4-501 et. seq. and their implementing regulations at 34 Code of Federal Regulations 395.1 et seq. and Tennessee Compilation of Rules and Regulations, Chapter 1240-6 et seq.

3. a. Agency agrees that the commissary service will be available to inmates on the days as mutually agreed to by Agency and Management.
- b. Agency shall provide pod kiosks and related software which can be used by inmates to electronically place orders, view account balances, view his/her transaction history, file grievances and request sick call. Paper order forms shall be used as a back-up to the pod kiosks.
- c. Additionally, Agency, through a third party vendor approved by Management, shall provide deposit kiosks and any other related telephone/internet options for individuals to make deposits to inmate accounts and the third party shall guarantee good funds to the County's inmate trust fund for all such deposits.
- d. All network wiring for kiosks shall be performed by the County's approved vendor at Agency's expense. All maintenance and replacement of inoperable kiosks and equipment shall be Agency's responsibility.
4. a. The licensed blind vendor and his/her employees shall package all orders and deliver these orders in clear, sealed, plastic bags to the inmates in the Correctional Center.
- b. The licensed blind vendor will submit an invoice weekly to Management who shall promptly compensate the licensed blind vendor, using inmate funds held on account, for all items delivered to the inmates.
5. Management and Agency shall develop Standard Operating Procedures (SOP) to set forth more specific guidelines as to day-to-day operations of the

commissary. These guidelines shall be incorporated into this Permitting Agreement by reference as fully as if contained in this Agreement

6. a. The use of the above-described premises shall be without cost to Agency or its licensed vendor and management shall bear the expense of all utilities; provided, however, that the licensed vendor shall on a weekly basis remit to Management six percent (6%) of net sales for that week.

b. "Net sales" for this purpose are defined at gross sales minus any applicable sales taxes and any sales of stamped items. Additionally, the licensed blind vendor shall provide indigent packs to the inmates in accordance with Section 11 of this agreement.
7. a. The Agency, through its licensed blind vendor, will maintain records of all charges against an inmate's account.

b. Agency shall provide to the blind vendor and Management for their use all necessary hardware and an inmate accounting software program that will track all transactions. This accounting system shall generate reports showing transactions as necessary and appropriate to monitor the program.

c. Upon Management's request, custom reports required for accreditation purposes or to comply with government requirements shall be provided to Management at no cost.

d. Agency shall provide continuing support for the software and the hardware throughout the length of the contract. Support to include correcting program and system problems plus enhancements to the software as offered by Vendor, or determined necessary by Management or Agency, at no additional

cost to the County. See Exhibit A for Inmate Commissary Services Computer System Specifications, which are incorporated herein as if stated verbatim.

8. a. The articles sold at the commissary shall be pre-packaged and may consist generally of,

| | |
|----------------------------------|----------------------|
| Personal Hygiene Products | Assorted Drinks |
| Personal Grooming Products | Candies |
| Clothing | Chips |
| Radios | Assorted Snack Items |
| Playing Cards/Games | Peanuts |
| Writing Paper | Popcorn |
| Ink Pens | Cookies |
| Envelopes | Pastries |
| Stamps | Pickles |
| Greeting Cards | Instant Lunches |
| Sundry Items for headaches, etc. | Soups |

- b. Management must approve all items to be sold through the commissary and may suggest changes to the items sold. Items sold shall be competitively priced as compared to the prevailing prices in the general area. c.

Agency shall conduct an annual price comparison survey using a national chain drug store, a local convenience store, and a large grocery or department store. Prices charged by Agency's blind vendor shall not be more than ten percent (10%) above the average of the three (3) surveyed entities. Agency's licensed manager shall have exclusive rights to sell these items to inmates except this permit shall not reduce the ability of the County to offer optional inmate-purchased, non-pre-packaged, menu items through its normal food service operation at meal times.

9. a. There will be no monetary limit on commissary orders for inmates in the general population although Management may choose to limit the number of certain items that can be ordered each week.
- b. Depending upon an inmate's classification and/or special dietary needs, purchases of commissary items may be further restricted by Management in accordance with established policy.
- c. The inmate accounting system shall denote those inmates with such restrictions and the blind vendor shall ensure that the restrictions are strictly enforced. Management shall provide weekly updates of those restricted inmates.
10. The Agency's licensed vendor shall be responsible for replying to all grievances related to the commissary service within seventy-two (72) hours, excluding weekends and official Shelby County holidays.
11. a. The licensed blind vendor shall provide indigent packages to inmates who meet criteria as jointly agreed to by Management and Agency. Such policy shall be incorporated by reference in this Permitting Agreement as if fully as if contained in this Agreement.
- b. An inmate shall be considered indigent if (s)he has less than Five Dollars (\$5.00) on his/her account for thirty (30) consecutive days.
- c. If an inmate has less than Five Dollars (\$5.00) on account and requests an indigent pack, his/her account will be assessed for the remaining balance in the account or the actual cost of the indigent pack, whichever is less. An inmate with less than Five Dollars (\$5.00) on his account who elects to

purchase products with that money forfeits any right to a free indigent pack that week.

d. The licensed blind vendor will deliver the packages to inmates in accordance with the policies of Management.

e. The first thirty thousand (30,000) indigent packages per year will be provided by the licensed blind vendor at no cost to Management. Additional indigent packs may be purchased by Management from the licensed blind vendor at the vendor's actual wholesale cost. The indigent packages shall include the following items:

- 3.5 oz. Soap
- 1.5 oz. Roll on deodorant
- .6 oz. Toothpaste
- Toothbrush
- Single blade razor for males
- 4 Single sheets of paper
- 2 Stamped envelopes
- 1 Pencil
- 1 Comb

The above list may be modified by mutual agreement of Management and Agency.

12. Agency's licensed blind vendor and all employees of the licensed vendor shall be required to comply with Management's security background check and drug screening requirements. The licensed vendor shall reimburse Management for any costs associated with the background checks and drug screenings.

13. No person on the ground of disability, age, religion, race, color, national origin, sex or any other classification protected by the U. S. or Tennessee Constitution or by statute, will be excluded from participation in, or be denied benefits of, or be otherwise

subjected to discrimination in the performance of this agreement or in the employment practices of TBE or Management.

14. Agency shall require its manager(s) to procure and maintain a liability insurance policy or policies covering personal injury and property damage claims, under which the facility manager and Management are named insureds. However, in no event shall the Agency be held liable for any injury or damage except insofar as may be strictly provided by Tennessee statute. Such policy or policies shall provide the following minimum coverages:

a. *Commercial General Liability Insurance -*

1. \$1,000,000 limit per occurrence bodily injury and property damage;
2. \$1,000,000 personal and advertising injury;
3. \$2,000,000 General Aggregate;
4. \$2,000,000 Products-Completed Operations Aggregate; and
5. Fire Damage \$100,000.

The insurance shall include coverage for the following:

- a) Premises/Operations
- b) Products/Completed Operations
- c) Fire Damage
- d) Contractual
- e) Independent Contractors
- f) Personal Injury

b. *Business Automobile Liability Insurance -* \$1,000,000 each accident for property damage and bodily injury. Coverage is to be provided on all:

1. Owned/Leased Autos
2. Non-owned Autos
3. Hired Autos

c. *Workers Compensation and Employers' Liability Insurance -* Workers Compensation statutory limits as required by Tennessee. This policy should include Employers' Liability Coverage for \$1,000,000 per accident.

d. *Property Insurance and Crime Insurance –* Agency shall maintain coverage for its own property and crime exposures.

15. This permit is granted subject to and shall be administered in accordance with the provisions of the Randolph-Sheppard Act, as amended (20 U.S.C. §§ 107-107f, as amended , T.C.A. §§ 71-4-501 et. seq., and their implementing regulations at 34 Code of Federal Regulations 395.1 et seq. and Tennessee Compilation of Rules and Regulations, Chapter 1240-6 et seq. In the event of amendment of such act or regulations or promulgation of new regulations, this Agreement shall be modified to incorporate such changes as are required by the amendments or new regulations.

16. It is expressly understood and agreed that the vending facility manager(s) and their employees or agents shall not be employee(s) of Management or the Agency and that nothing in this Agreement shall be construed to create an employment relationship with Management or with the Agency or to vest in the manager(s) any rights or benefits of employment with Management or with the Agency.

17. This Agreement shall remain in effect until terminated by either Management or Agency upon sixty (60) days written notice, provided, however, that if this agreement is terminated for any reason, it shall not be construed that Agency in anyway waives its statutory priority to manage and operate any future vending facilities at this site.

18. Any notices required or permitted to be given under the provisions of this Agreement shall be effective only if in writing and delivered either in person to the County's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

COUNTY: Shelby County Division of Corrections

1045 Mullins Station Road
Memphis, Tennessee 38134
Attn.: Mr. Andrew Taber, Director

and

Shelby County Government
Agreement Administration
160 N. Main St., Suite 550
Memphis, Tennessee 38103

AGENCY: State of Tennessee
Department of Human Services
Services for the Blind and Visually Impaired
400 Deaderick Street, 14th Floor
Nashville, TN 37243
Attn.: Mr. Terry C. Smith, Director

IN WITNESS WHEREOF, the parties have hereunto subscribed their names as of the
____ day of _____, 20____.

**APPROVED AS TO FORM
AND LEGALITY:**

Contract Administrator
Assistant County Attorney

SHELBY COUNTY GOVERNMENT

A. C. Wharton, Jr., Mayor

**DEPARTMENT OF HUMAN SERVICES
Services for the Blind and Visually Impaired**

Terry C. Smith, Director

EXHIBIT A

INMATE COMMISSARY SERVICES COMPUTER SYSTEM

- I. **COMPUTER HARDWARE AND SOFTWARE SYSTEM:** Agency must provide hardware and software to make certain that the system allows for the following:
 1. Establish an individual account for each new inmate to include the following information:
 - a. Name and Inmate Account Number (R & I No.)
 - b. Date of Arrival
 - c. Sex
 - d. Date of Birth
 - e. Aliases (if any)
 2. Modify new arrivals who have been incarcerated here before.
 3. Account for cash, money order, cashier check deposits to inmate accounts from the following sources:
 - a. Cashiers window (third party cash only)
 - b. Mail receipts recorded and transferred by Security personnel.
 - c. Batch transactions of cash transferred from other institutions (primarily Sheriff's Dept. County jail)
 - d. Work release inmates pay checks.
 - e. Other miscellaneous deposits i.e. shakedown money, weekender funds, cash held by inmates upon arrival, unclaimed funds.
 - f. Receipts from Kiosks at Division.
 - g. Electronic receipts from any other source agreed to by the County and Agency.
 4. Account for withdrawals from inmates accounts for:

- a. Discharge
 - b. "Send home" money requests
 - d. Work allowance funds
 - e. Eyeglass charges
 - f. Court ordered garnishment of account
 - g. Court ordered child support payments
 - h. Other categories determined by the County
5. Account for and provided payment to County for the following charges:
- a. Room and Board charges for work release inmates
 - b. Transportation charges for work release inmates
 - c. Commissary charges
 - d. Lost I. D. card charges
 - f. Disciplinary charges i.e. damaged property
 - g. NSF checks returns by bank
 - h. Other categories determined by the County
6. Provide the following information as a minimum on screener report form:
- a. History of individual accounts
 - b. Demographics of accounts
 - c. Detail transaction journal
 - d. Daily close out of business to include:
 - (1) Summary of cash on hand
 - (2) Bank balance
 - (3) Inmate Account balances

(4) Summary of Daily transactions

(5) Daily Balance Sheet

7. The system must provide for an automated check writer and the associated check register and must allow for automated bank statement reconciliation.
8. System must properly account for charges for indigent packages.
9. System shall provide for inmates submitting grievances with response and tracking functionality.
10. System shall provide a method for inmates to request sick call and functionality to provide medical with required information and tracking functionality.

II. **REPORTING REQUIREMENTS:** the following reports are to be furnished, as a minimum standard, to the County. State how these and other reports will be generated.

1. Monthly complaint summary including complaint type and resolution.
2. Monthly product sales analysis to include quantity and dollar value by individual product, category, and totals.
3. Quarterly and annual summary reports of business activity.
4. Reports on sick call requests by building, inmate, type, etc.
5. Reports on grievances by building, inmate, type, etc. as well as open versus closed, days to respond, etc.